

Spanish Borderlands



Mission Concepción, 1900–1920. Courtesy of the Library of Congress, The Robert Runyon Photograph Collection (Reproduction no.: 04144).

Francisco Vázquez de Coronado and Juan Bautista de Anza and prominent missionaries such as Junípero Serra and Eusebio Kino. Bolton's work gained a wide popular audience for borderlands history.

The historical vision of Bolton and his students, however, was limited. They celebrated the missionaries' efforts among the Indians but ignored the negative impact of these institutions. Consequently, in recent years Indian and Mexican scholars have criticized Bolton for presenting a narrow, Hispanophilic view of the borderlands past. Also, women were far more than bit players in the stories Bolton and his students told. The histories of borderlands women generally, and especially poor women, received scant attention from historians. More recently scholars such as Ramón Gutiérrez, Antonia Castañeda, María Raquel Casas, and Vicki Ruiz have done much to correct the distorted picture that Bolton painted. Their work includes imaginative histories of Indian societies, women, and families. They consider not only the Spanish, but also the Mexican past. Anglo-American immigrants are set in the context of a long and vibrant history, rather than being presented as pioneers with a God-given license to conquer the West. Once seen as peripheral to American history, the borderlands now are central to the understanding of the multicultural American West.

SOURCES: Bolton, Herbert E. 1921. *The Spanish Borderlands: A Chronicle of Old Florida and the Southwest*. New Haven, CT: Yale University Press; Gutiérrez, Ramón A. 1991. *When Jesus Came, the Corn Mothers Went Away: Marriage, Sexuality, and Power in New Mexico, 1500–1846*. Stanford, CA: Stanford University Press; Hurtado, Alberto. 1999. *Intimate Frontiers: Sex, Gender, and Culture in Old California*. Albuquerque: University of New Mexico Press; Kessell, John L. 2002. *Spain in the Southwest: A Narrative History of Colonial New Mexico, Arizona, Texas, and California*. Norman: Univer-

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Albert L. Hurtado

Colonial Law

Women of Hispanic, indigenous, and African descent residing in the present-day southwestern United States lived in Spanish (1550s–1821) and Mexican (1821–1846) society whose laws were derived from Spain. Las Siete Partidas and Leyes de Toro, thirteenth- and sixteenth-century compilations of law, as well as subsequent royal decrees and canon law, defined women's legal status in marriage, the family, and society. Mexican and, earlier, Spanish legal and social norms were permeated with a patriarchal ideology that recognized men as the heads of the households to whom wives and children owed their obedience and pledge of honor. A foundation of Spanish law was the widely held tenet of paternal authority (*patria potestas*) that came from deep in the Iberian past and was embedded in Las Siete Partidas and Leyes de Toro, which located familial authority in male heads of household—fathers and husbands—on the assumption that this delegation of power assured a well-ordered family and stable society. A man had virtually complete authority over his dependents—wife, legitimate children, and any servants in the household—who, in turn, owed him their obedience in all matters. Qualifying a man's authority was his obligation to support, protect, and guide his spouse and legitimate offspring. The law and social mores also required a husband to respect a wife's person, but it conceded him the right to dole out mild punishment—the meaning of which varied with time, locale, and circumstance—to her and his other dependents as a way of guiding or teaching them. The ideal home (*casa de honor*) was a place where husband and wife, regardless of socioeconomic status or racial and cultural identity, treated each other well, supported their dependents, practiced their religion, remained faithful to one another, and otherwise set a good example for their children. Men who abandoned or neglected the livelihood of their households or engaged in excessive punishment violated not only the law but also the norms of their communities. Those same patriarchal values also placed restrictions and responsibilities on men: They had to provide food, clothing, and shelter for their families and were forbidden to use excessive force in guiding and instructing their wives, children, and household servants. Illegitimate children,

or *hijos naturales*, those born out of wedlock, or *hijos espurios*, those born as a result of adultery, on the other hand, derived few, if any, benefits from *patria potestas*. Fathers were expected to support and rear them but not to provide them with any inheritance.

Mexicans inherited from Spain strong convictions about the centrality of marriage, sexuality, and the family to the survival of civilized Catholic society. These convictions seemed self-evident to Mexicans living on the northern frontier. Though most local officials lacked formal legal training, they familiarized themselves through custom handed down by previous generations with the relevant civil codes on marriage and the family. At the most elemental level stable marriages and families produced the children who would secure the future and also assure continuity in cultural and moral values. Except through death, a church-sanctioned annulment, or an ecclesiastical divorce (which allowed couples to separate but not to remarry others), marriages, preached the padres, remained indissoluble, even when one spouse was extremely cruel to the other. Regional differences sometimes occurred. In central Mexico, for example, ecclesiastical divorces were permissible in extreme cases, when one spouse was extremely cruel or had physically abused or threatened to kill the other. Additional grounds for divorce were abandonment and inadequate support that forced a spouse to commit a crime, such as prostitution. Absolute proof in the form of eyewitness accounts was necessary to substantiate the transgression. A spouse's confession was insufficient. In the colonial Southwest, for example, in California, however, these grounds were not sufficient for ecclesiastical divorces, because religious leaders agreed that even in cases of extreme cruelty limited divorce was unacceptable. The priests' reluctance to grant divorces and to break up unhappy households underscores the weight given to the family in maintaining order, reproducing the population, and developing the region, particularly on the northern frontier, where the growth of a stable society was in its early stages.

Closely regulated female sexual behavior before, during, and after marriage was key to maintaining and reproducing honorable and legitimate families, as well as children necessary in the inheritance and transfer of property. Sociosexual codes required women to maintain their sexual virtue (or honor) in and outside marriage: virginity before marriage, fidelity during marriage, and chastity in widowhood. To violate these cultural norms brought shame (*vergüenza*) to them and dishonor to the men in their homes and to their families in general. Men, in contrast, faced less severe expectations in their sexual behavior. Legally, they faced no repercussions for their sexual activity unless they

committed crimes such as rape or adultery. Their role was to defend female honor and, if necessary, restore the loss of honor to their household brought about by a wife or daughter's sexual improprieties. A male had the right to place a female in seclusion, often in a convent, to protect his or the family's reputation and social standing in the community. Males thus enjoyed the benefits of a double standard of sexual propriety that reinforced their authority in marriage and the family.

Women, in particular, including wives and daughters, were expected to maintain their marital fidelity during marriage and sexual purity before marriage. Those who dishonored husbands or fathers with sexual indiscretions brought dishonor to the entire family. Honorable men, for their part, maintained their authority over the family and embodied masculinity. Threats to their authority through rape, which was viewed not only as a grave offense against a female's reputation or sexual virtue, but also as a stain on the husband's and family's honor and social standing, were remedied through the law. Hispanic law reflected this attitude, because it allowed male members of a family to kill a perpetrator who was caught in the act of rape.

Spanish-speaking women who had children out of wedlock and lived with men who were not their spouses or consorted with married men faced personal and public accusations that tarnished their and their family's honor and social standing in the community. In the Spanish era authorities sometimes publicly shamed women for leading immoral lives by shaving their heads and one eyebrow and forcing them to stand in and outside church during and after mass on Sundays. One widow who experienced this humiliation was Anastacia Zúñiga, a resident of Los Angeles, California, who had an extramarital relationship with a carpenter from Mission San Gabriel, José Antonio Ramírez, that resulted in the birth of a daughter in 1818. After she appeared in church with her head and eyebrow shaved, the governor ordered Comandante Militar José de la Guerra y Noriega, Los Angeles' *comisionado* (a military official with authority over local affairs) to remove her to the presidio of Santa Bárbara and place her in seclusion in an honorable home for six months, where she would be obligated to serve in the household and "lead a religious life as a Christian woman." Ramírez, on the other hand, faced a less severe punishment. The governor encouraged him to marry Zúñiga and, if he refused, to pay for the child's support. In the meantime, Ramírez would have to labor for one month in public works.

In contrast to Spanish-speaking women, Mexican men who had children out of wedlock or consorted with females who were not their spouses or were married faced few legal or social repercussions for their il-

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licit sexual behavior. Unlike women who belonged to the *gente de razón* (rational people), men *de razón* benefited from a double standard of sexual mores that nearly excused them from sexual misconduct yet vilified females for it. Even when a Mexican woman openly identified a man as the father of her child, he was not publicly shamed and was allowed to retain his honor, reputation, and social standing in the community. In all likelihood, fathering an illegitimate child brought some dishonor to a man and, if he was married, to his wife and any children.

Despite patriarchal attitudes and laws that restricted women in marriage and the family, females had the legal right to acquire and use their own property. Widows and single women over the age of twenty-five could do so without interference from male family members. Married women and minor daughters, however, needed their husbands' and fathers' permission. Women's rights to land in Spanish/Mexican California derived from decrees and statutes, especially those in the *Recopilación de las leyes de los reynos de las indias*, a seventeenth-century compilation used to govern New Spain, and in *Las Siete Partidas* and *Leyes de Toro*, summaries that supplemented the *Recopilación*. During the Spanish era the monarch, as owner of all lands and natural resources in New Spain, held ultimate authority in allocating rights to such property, but the Crown frequently delegated authority to viceroys and other subordinates who, in turn, sometimes vested the power in others. Grantees, whether corporate bodies or individuals, had to fulfill stipulations for acquiring and holding on to land, beginning with an affirmation that no one else claimed the property and that it did not infringe on another's possession. A grant usually conferred on the recipient a usufruct right, not title in fee simple as in the English colonies. To obtain title, the grantee had to use and develop the land, sometimes in quite specific ways. If these requirements were met, the grantee could retain the property in perpetuity and bequeath it to family members or others. Failure to meet the requirements could result in the property being "denounced" (*denunciado*) and acquired by others.

Women, like men, had the right to acquire and retain property not only through grants but also through endowments, purchases, gifts, and inheritances. A widowed woman, for instance, inherited half of the community property (*bienes gananciales*) accumulated during a marriage, while daughters shared the remaining half of the property with other siblings. Women could also administer, protect, and invest their property, which they did in a variety of ways: initiating litigation, appearing in court and, if they so wished, acting as their own advocates, entering into contracts, forming business partnerships, administering estates,

and loaning and borrowing money and other goods. A woman's marital status, however, determined the extent of her control over property, earnings, and domestic activities. Women subject to paternal authority—married women and women under the age of twenty-five, regardless of marital status—needed their husbands' or fathers' permission to conduct business related to their holdings. Only widows and single women over the age of twenty-five had freedom from these restrictions.

Though unmarried women had the right to carry out their own *negocios* (businesses), they, as well as their married counterparts, often elected husbands and fathers or other men in the community to represent them in their property transactions. Women did so by giving men power of attorney, which allowed their representatives to conduct all of their money matters, which included the right "to claim, collect, receive, and demand of every person the amounts due," as well as "to file suits in writing, prosecuting same through all courts to final legal decision." Unlike widowed and single women over the age of twenty-five, married women who appointed an attorney needed their spouses' permission to do so. Failure to obtain it nullified the appointment and any transactions carried out. The practice of giving men power over women's affairs, however, did not diminish a woman's ability to oversee the management of her assets. Rather, the men who advocated on their behalf did so through the authority their female clients granted them. Therefore, the men were accountable to the women and were expected to carry out their dealings with honesty and integrity, though occasionally the men strayed from their obligations. Women who believed that their representatives had neglected to carry out their duties, either inadvertently or deliberately, could have local officials revoke their power and replace them with other persons.

Women's ability to carry out a wide range of business transactions, either through a representative or on their own behalf, was not limited by the inability of the majority of them to read and write or even sign their names. Illiterate women (as well as men) went to scribes or had literate family members pen their contracts, petitions, and letters. In other cases women handled their business matters in person and went before the proper authorities to articulate their needs or decisions. Nevertheless, the inability to read and write sometimes presented grave risks for women who had to rely on others who could potentially take advantage of their inability to oversee and verify written transactions.

In the colonial Southwest Hispanic law governed most aspects of women's lives, especially in marriage and the family. Legal and social codes defined the extent to which women could wield power over their

property, children, and their sexuality in and outside marriage. Women who transgressed sociosexual codes of female behavior, for instance, faced serious consequences, while men who committed similar violations of sexual mores encountered few, if any, repercussions. Despite frequently oppressive cultural norms and laws, many women sought a better life for themselves and their families.

See also *Marianismo* and *Machismo*

SOURCES: Arrom, Sylvia Marina. 1985. *The Women of Mexico City, 1790–1857*. Stanford, CA: Stanford University Press; Chávez-García, Miroslava. 2004. *Negotiating Conquest: Gender and Power in California, 1770s to 1880s*. Tucson: University of Arizona Press; Gutiérrez, Ramón. 1991. *When Jesus Came, the Corn Mothers Went Away: Marriage, Sexuality, and Power in New Mexico, 1500–1846*. Stanford, CA: Stanford University Press; Lavrin, Asunción. 1989. "Introduction." In *Sexuality and Marriage in Colonial Latin America*, ed. Asunción Lavrin. Lincoln: University of Nebraska Press; Stern, Steve J. 1995. *The Secret History of Gender: Women, Men, and Power in Late Colonial Mexico*. Chapel Hill: University of North Carolina Press.

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Comadrazgo

Spanish-speaking women who settled in the Spanish colonial borderlands beginning in the early sixteenth century formed women's networks based upon ties of blood, but also established fictive kinship through bonds of *comadrazgo* (comothering) that proved central to the settlement of the Spanish Mexican frontier. A close study of these complex relations reveals women's agency as both settlers and *comadres*. Women settlers participated in activities such as stock raising and cultivation; however, settler women also acted as midwives to mission Indians and served as godmothers to Indian children through bonds of *comadrazgo* formalized through the Catholic Church. Children received godparents at birth and later at the holy sacraments of confirmation, first Communion, and marriage. Bonds of *comadrazgo* enabled the rise of local and regional networks that reinforced the Spanish colonial government's goal of claiming territory, forming community, and enticing other Spanish colonials to undertake the journey to the borderlands.

Ritual kinship relations, or *comadrazgo*, extended beyond daily routines, care of the sick, celebrations of marriage, baptism, birth, and death. Bonds of *comadrazgo* brought immigrant and local families together and broadened family ties through the creation of dynamic communities that over time developed precious traditions and customs in an area that was socioeconomically isolated and subject to larger administrative control. Frontier women proved extremely

resourceful in settling the borderlands through complex interactions of race, class, and geography. Yet Indian and Spanish families did not stand on equal footing. Hispanic Catholicism was intended to supplant local native religion, and racial difference between Spaniards and Indians remained a marker of separation. However, racial differentiation during the late colonial period along the northern frontiers lessened in importance as a symbol of discrimination because of the shortage of an easily exploitable native labor pool and the nature of working in the fields side by side with mestizos, Indians, blacks, and whites. Thus the practice of racial mixing between farmers, servants, soldiers, Indians, artisans, and "mixed bloods" became more prevalent along the border.

These complex networks birthed a regional history marked by tradition, obligations, duty, respect, love, and inequality. Kinship arrangements buttressed everyday life in the Spanish colonial borderlands. Although men acted as soldiers, agriculturalists, farmers, and artisans, women held their own influence rooted in these intricate female networks. Acting as midwives and as godmothers and baptizing sick or stillborn babies, they extended protection to indigenous people and in turn adopted many of the herbal remedies used in indigenous cures. However, while bonds of baptism tied Spanish settlers with indigenous women, patterns of reciprocity allowed women to care for one another as family and as neighbors under unequal arrangements, since indentured servitude was prominently practiced along the colonial frontier. Although *comadre* relations fostered ties between colonists and indigenous people, a study of fictive kinship reveals that bonds of *comadrazgo* helped extend social control over Indians and reinforced a tradition of influence emphasized and extended through female networks of social and spiritual interdependence.

Traditions of *compadrazgo* similarly extended familiar blood ties through godparenting rites formalized through Catholic ceremonies. *Compadres* would also be responsible for giving advice, financial assistance, and taking over parental duties in instances in which godchildren's parents passed away.

SOURCES: Haas, Lisbeth. 1995. *Conquests and Historical Identities in California, 1769–1936*. Berkeley: University of California Press; Hurtado, Albert L. 1988. *Indian Survival on the California Frontier*. New Haven, CT: Yale University Press; Ruiz, Vicki L., and Virginia Sánchez Korrol, eds. 2005. *Latina Legacies: Identity, Biography, and Community*. New York: Oxford University Press; Weber, David J. 1982. *The Mexican Frontier, 1821–1846: The American Southwest under Mexico*. Albuquerque: University of New Mexico Press.

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